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FM AMEMBASSY TOKYO
TO RUEHC/SECSTATE WASHDC PRIORITY 5423
INFO RUEHFR/AMEMBASSY PARIS PRIORITY 5617
RUEHFK/AMCONSUL FUKUOKA PRIORITY 2024
RUEHNAG/AMCONSUL NAGOYA PRIORITY 1111
RUEHNH/AMCONSUL NAHA PRIORITY 4444
RUEHOK/AMCONSUL OSAKA KOBE PRIORITY 5613
RUEHKSO/AMCONSUL SAPPORO PRIORITY 2821
RHEHAAA/NSC WASHDC PRIORITY
RUCPDOC/DEPT OF COMMERCE WASHINGTON DC PRIORITY
RUEATRS/TREASURY DEPT WASHDC PRIORITY

UNCLAS SECTION 01 OF 03 TOKYO 003179

SIPDIS

SENSITIVE
SIPDIS

USTR FOR CULTER, BEEMAN, MEYERS
NSC FOR TONG
DOC FOR 4410/ITA/OJ/NMELCHER
PARIS FOR USOECD
TREASURY FOR IA/DOHNER, CARNES AND POGGI
STATE PASS TO FEDERAL RESERVE BOARD FOR JKOHLI

E.O. 12958: N/A
TAGS: ECON EFIN JA PGOV
SUBJECT: JAPAN POST PRIVATIZATION - COMMITTEE COMMENTS ON
THE IMPLAMENTATION PLAN. GOOD FOR US FINANCIAL COMPANIES;
NOT SO GOOD FOR EXPRESS CARRIERS

REF: TOKYO 02716

¶1. (SBU) Summary. Japan Post begins a ten-year privatization process on October 1 releasing nearly $3 trillion in banking and insurance assets from government control. In preparation, the Japan Post Company on May 1 issued an implementation plan, rumored to be over 400 thousand pages in length, and provided a 119 page summary of the plan for public comment to interested parties. The lack of detail in the summary, however, and the extremely limited time allotted for public comment (sixteen business days) makes it difficult to evaluate whether equivalent conditions of competition will exist after October 1. The Postal Service Privatization Committee (PSPC), the council charged with overseeing the privatization process, subsequently released an opinion paper on the implementation plan which contained language that was particularly welcomed by the insurance and financial industries for its assurances regarding transparency, Japan Post successor companies being subject to the same rules and regulations as the private sector, and the process for introducing new products. The opinion was particularly positive when compare to the PSPC's comments on draft implementation plan in late 2006 which focused on "consumer convenience" rather than competition issues. The PSPC opinion was less favorable for international express mail delivery services. Japan Post's Express Mail Service (EMS), which the USG contends competes directly with international express mail companies such as FedEx and UPS, will continue to be classified by the Ministry of Internal Affairs and Communication (MIC) as universal service after privatization. This allows for preferential regulatory treatment and creates an unfair competitive advantage that enables EMS to deliver its service at a significantly reduced cost versus competitors. The PSPC opinion did not challenge this situation. The USG and industry should continue to apply pressure on the GOJ to establish a level playing field in this sector. End Summary.

¶2. (SBU) As discussed reftel, Japan Post begins a ten-year privatization process on October 1 releasing nearly $3 trillion in banking and insurance assets from government

control. In preparation, the Japan Post Company on May 1 issued an implementation plan, rumored to be over 400 thousand pages in length, and provided a 119 page summary of the plan for public comment to interested parties. Both the American Chamber of Commerce in Japan (ACCJ) and the U.S. government submitted comments to the Postal Service Privatization Committee (PSPC), the council charged with overseeing the privatization process, during the public comment process. Despite repeated requests from the USG and industry, however, Japan Post Corp. never released the entire implementation plan to interested parties.

¶3. (SBU) The primary concern for both domestic and international industry in the privatization process is ensuring that the four new Japan Post entities, the postal banking company (Yucho), the postal insurance company (Kampo), the postal delivery company and the postal service company, are subject to equivalent conditions of competition as the private sector. The lack of detail in the summary, however, and the extremely limited time allotted for public comment (sixteen business days) makes it difficult to evaluate whether these equivalent conditions will exist after October 1. Much of the discussion in both the USG's and ACCJ's comments submitted to the PSPC focused on this lack of detail.

¶4. (SBU) Subsequent to ACCJ representatives testifying before the PSPC, the committee agreed to allow interested parties to submit questions to Japan Post Corp. and to compel the company to respond. Before industry was able to develop such a list, however, PSPC issued its own opinion on the implementation plan. Its assessment was surprisingly laudatory. The opinion contained language that was

particularly welcomed by the insurance and financial industries for its assurances regarding transparency, Japan Post successor companies being subject to the same rules and regulations as the private sector commencing October 1 and the process for introducing new products.

¶5. (SBU) With regards to insurance and banking, the opinion states there should be "maximum effort..made to dispel the perception of an implicit government guarantee," that the privatized Japan Post companies should "be granted the same treatment in the enforcement of relevant laws and regulations" as private corporations and that "new business operations shall be approved through the commission's investigations and deliberations while ensuring appropriate competitive relations." Finally, the report calls for measures to prevent cross-subsidization and other preferential treatment between the privatized companies stating "At the time of succession, there will be a need to consider...whether contracts between the succeeding companies will comply with...the arms-length rule regulation...." These are all issues of great concern to U.S. industry. The commission's positive remarks are a welcome step forward, especially compared with its remarks on the draft implementation plan in July 2006 in which PSPC emphasized "consumer convenience" over competitive concerns.

¶6. (SBU) Unfortunately, the PSPC opinion was less favorable for international express mail delivery services. Specifically, the opinion discusses the development of "new business operations of the postal delivery corporation" and calls for these new businesses to be established "under equivalent conditions of competition with private companies." However, when questioned about the definition of "new business operations," Office for the Privatization of Japan Post (OPJP - PSPC's secretariat) Counselor Akira Nishihara told Econs in a June 15 meeting that international express delivery services like those provided by FedEx and UPS are not now provided by Japan Post. The Japan Post product, Express Mail Service (EMS), which the USG believes competes directly with FedEx and UPS, is defined under universal service as put forth by the Universal Postal

Union and, as such, does not compete with the private sector, Nishihara maintained. Equivalent conditions of competition would only apply to new products Japan Post would develop in the future. This is the same position that the Ministry of Internal Affairs and Communications (MIC) which regulates EMS held during the Regulatory Reform talks in May.

¶7. (U) Defining EMS as part of universal service is significant. Under universal service, the timely and efficient receipt of mail is a right of every Japanese citizen and therefore, products categorized as such may receive preferential regulatory treatment. By classifying EMS as part of universal service, the product can enjoy favorable treatment in such things as customs clearance and de minimus customs declaration. This allows EMS to deliver its product at an extremely low price. According to Japan Post's website, a 500 gram (1.1 pound) package mailed using EMS from Tokyo to San Diego would cost the sender Y1,500 yen ($12.19) and would arrive in "two-to-three" days. The same package using FedEx would cost Y8,280 yen ($67.31) for priority service (delivery by 12:30pm on the second day) or Y12,420 yen ($100.97) for first class service (delivery by 8:30am on the second day).

¶8. (SBU) The matter is further complicated as the Japan Fair Trade Commission (JFTC), which is charged with overseeing anti-monopoly and competitive policy issues, released a report in July 2006 giving its opinion that EMS does compete directly with international express mail delivery companies. The report states "(because) the EMS network cooperation between six postal agencies including Japan Post has been strengthened, some of the EMS services have become similar to international express delivery

services, creating competition between EMS and international express mail delivery services."

¶9. (SBU) During a July 6 meeting with Ecouns, JFTC Director for International Affairs Shuichi Sugahisa reaffirmed the commission's belief that EMS does compete with the private sector. He noted the report specifically discusses what accounting procedures should be used to ensure proper costing to account for EMS' use of the Japan Post infrastructure. Failing to do so could constitute dumping, Sugahisa suggested. However, Sugahisa also stated that JFTC could only issue its opinion and had little enforcement capability unless there was a clear violation of Japan's Anti-Monopoly Act. The commission has no ability to take action against another government entity, he said. When pressed, Sugahisa admitted that allowing different customs procedures for EMS could be an unfair competitive advantage that would allow EMS to price its services below those of its competitors. He stated that one way to resolve this issue would be for private industry to bring suit against the Government of Japan and let the Japanese courts decide. This has been tried once before by a group of businesses which believed the Tokyo metropolitan government provided unfair competitive advantages to a city-run slaughterhouse. The court ruled in favor of the city.

¶10. (U) The PSPC's opinion regarding Japan Post's plans for the postal banking and insurance companies post privatization is a positive development for U.S. industry particularly given the concerns surrounding the 2006 draft implementation plan. At that time, there was little to no mention of the need for competitive equality in introducing new products or about the need for transparency in financial reporting to protect against cross-subsidization. The concerted efforts of the USG and the ACCJ can be credited with the progress made on this front. Unfortunately, the outlook for express delivery is not as bright. The USG and U.S. industry should continue to urge on the GOJ to establish a level playing field in this sector.
SCHIEFFER